

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ROBERT MITCHELL ALEXANDER, ET AL. §

VS. § CIVIL ACTION NO. 1:10cv807

D. KUKUA, ET AL. §

MEMORANDUM OPINION REGARDING VENUE

Plaintiffs Robert Mitchell Alexander and Ronald Lee Alexander, inmates currently confined at the Stiles Unit in Beaumont, Texas, proceeding *pro se*, bring this civil rights action pursuant to 42 U.S.C. § 1983 against D. Kukua, R. Pawelek, Barbara Trevino, J.M. Garcia. M. Es-Parza, P. Reece, N. Wallace, L. Webb, and K. Longoria. All of the defendants are employed at either the Garza Unit or the Regional Office located in Beeville, Texas.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Factual Background

Plaintiffs complain of the conditions of their confinement at the Garza Unit.

Analysis

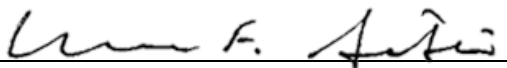
The Civil Rights Act, 42 U.S.C. §1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curium*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. Plaintiffs' claims arose at the Garza Unit in Beeville, Texas. Further, the defendants are employed at the Garza Unit in Beeville, Texas. Beeville is located in Bee County, Texas. When public officials are parties to an action in their official capacities, they reside for venue purposes in the county where they perform their official duties, which in this case is Bee County, Texas. *Holloway v. Gunnell*, 685 F.2d 150 (5th Cir. 1982); *Lowrey v. Estelle*, 433 F.2d 265 (5th Cir. 1976).

Pursuant to 28 U.S.C. § 124, Bee County is in the Corpus Christi Division of the Southern District of Texas. As Bee County is located in the Southern District of Texas, venue in the Eastern District of Texas is not proper.

When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). This case should be transferred to the Southern District of Texas. An appropriate order so providing will be entered by the undersigned.

SIGNED this 30 day of March, 2011.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE